

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 8975 of 2021

With

R/SPECIAL CIVIL APPLICATION NO. 7830 of 2021

With

CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2021
In R/SPECIAL CIVIL APPLICATION NO. 7830 of 2021

With

R/SPECIAL CIVIL APPLICATION NO. 8946 of 2021

With

R/SPECIAL CIVIL APPLICATION NO. 9481 of 2021

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YAGNESHKUMAR DEVENDRABHAI PANDYA

Versus

STATE OF GUJARAT

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Appearance:

MR UI VYAS(1000) for the Petitioner(s) No. 1,2

MR. KARAN U VYAS(6992) for the Petitioner(s) No. 1,2

MS DHRUMA U VYAS(6850) for the Petitioner(s) No. 1,2

MR UTTKARSH SHARMA AGP FOR the Respondent(s) No.1

MR MIHIR JOSHI SENIOR ADVOCATE WITH MR SUBHAM JHAJHARIA (4) for
the Respondent(s) No. ,2,3

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 04/10/2021

ORAL ORDER

Heard learned Advocate Shri Uday Vyas with learned Advocate Shri Karan Vyas on behalf of the petitioners, learned Senior Advocate Shri Mihir Joshi with learned Advocate Shri Shivam Jhanzaria on behalf of respondent no.2 and 3 and learned Assistant Government Pleader Shri Uttkarsh Sharma on behalf of respondent no.1- State.

By way of these petitions, the petitioners have sought for the following prayers:

Special Civil Application No. 8975 of 2021.

17. (a). Be pleased to allow this Special Civil Application.

(b). Be pleased to issue a writ of mandamus or certiorari or any other appropriate writ, order or direction directing the respondent authorities to regularize the service of petitioners for their respective post in respondent department and to grant the consequential benefits;

(c) Be pleased to quash and set aside the termination dated 05.07.2021 issued by the respondent authority and further be pleased to direct the respondent authorities to reinstate/renew the contract of the petitioner till the final disposal of the petition.

(d) Pending admission, hearing and final disposal of this petition, the Hon'ble Court be pleased to direct the respondent authorities not to terminate the service of the petitioner.

Special Civil Applications No. 7830 of 2021, 8946 of 2021 and 9481 of 2021

17. (a). Be pleased to allow this Special Civil Application.

(b). Be pleased to issue a writ of mandamus or certiorari or any other appropriate writ, order or direction directing the respondent authorities to regularize the service of petitioners for their respective post in respondent department and to grant the consequential benefits;

(c) Pending admission, hearing and final disposal of this petition, the Hon'ble Court be pleased to direct the respondent authorities not to terminate the service of the petitioner.

It is the case of the petitioners. before this Court that the petitioners having been appointed on contractual basis for a period of 11 months for approximately 3 years in total, the petitioners services need to be regularized with the respondent no.2- District Mineral Foundation.

Learned Advocate Shri Vyas would further submit that upon expiry of the contract of the present petitioners the respondents are contemplating filling up of the said posts by bringing in other candidates on the same very contractual basis. Therefore learned Advocate Shri Vyas would submit that the services of the petitioners ought to be protected at this stage so that the petitioners who are working on contractual basis are not replaced by another set of employees who are working on the same set of contract.

As against the same, learned Senior Advocate Shri Joshi has submitted that while this scheme of the Gujarat District Mineral Foundation Rules, 2016 (for short 'the Rules') contemplates appointment of persons only on contract basis as required under the Annual Plan as per Rule 17 (3) of the Rules. It is further submitted by learned Senior Advocate that though as per the Rules the employees are to be appointed on contract basis as per a decision taken by the State Level Coordination Committee Meeting held on 11.11.2016, it is resolved to appoint an agency to which the appointment of posts at District Level shall be outsourced. Learned Senior Advocate therefore would submit that now as contemplated in the meeting the District Mineral Foundation is contemplating appointing of an agency to which all appointments shall be outsourced and it would be job of the outsourcing agency to fill up the posts in question.

Having regard to the submissions made by learned Advocate Shri

Vyas and learned Senior Advocate Shri Joshi at this stage this Court is of the considered opinion that as far as issue with regard to the regularization is concerned, said aspect requires consideration. Hence issue **Rule** returnable on **24.01.2022**.

As far as interim relief in Special Civil Applications No. 8946 of 2021 and 9481 of 2021 is concerned it is directed that in case the respondent-District Mineral Foundation is contemplating filling up of the posts which are now held by the petitioners on contract basis, by its own and not through an outsourcing agency then the respondent – Gujarat Mineral Foundation shall consider the case of the petitioners more particularly keeping in view the fact that the petitioners have an experience of working on the said position in question.

NIRU

(NIKHIL S. KARIEL,J)